

Serial No.: 10/099,989
Atty. Docket No.: P67695US0

REMARKS

The Final Office Action mailed April 20, 2004, has been carefully reviewed and Applicant appreciates the withdrawal of the finality of the previous Action.

By this Amendment, claims 1 and 6 have been amended. Claims 1 and 6 are pending in the application.

The Examiner rejected claims 1 and 6 under 35 U.S.C. 103 as being unpatentable over U.S. Patent No. 4,481,681 to Hankin in view of U.S. Patent No. 6,493,880 to Lo.

As set forth in amended claim 1, the present invention is directed to a cap having a sweatband sewn to the crown main body. The sweatband is made of a fabric portion *woven* of a spun thread material *to form a tube*, the tube forming a central tunnel or tubular channel. As clearly claimed and as set forth in the specification, the tube is formed *by the weaving process itself* such that no stitching is required in order to form the tube (see the specification at page 3, lines 13-15, and page 5, lines 17-23). This contributes to a simplified production process (page 6, lines 2-5), and is not shown or suggested by the prior art.

Hankin requires that opposite edges of the sweatband be sewn together to form the channel 35 that extends through the sweatband (column 3, lines 3-5). There is no teaching of forming a tubular article *by the weaving thereof*, and nothing to suggest such a construction. Rather, because the channel 35 formed by Hankin must be sized appropriately to accommodate the strap, the method used by Hankin is preferable for the invention therein disclosed in that the placement of the line of stitching may be deliberately selected, whether closer to the open edges or closer to the fold, in order to create a channel having a particularly desired width for the strap.

With respect to the present invention as set forth in amended claim 6, again the sweatband includes a fabric portion *woven* to form a tube, with no need for stitching to achieve this structure. The tube formed by the overall weaving process forms a tubular channel that, when flattened, provides two layers of the fabric portion that lie against one another and provide moisture absorbency when the sweatband is in use. The sweatband is sewn with only two substantially parallel lines of stitching along longitudinal edges thereof to provide a guideline for attaching the sweatband *directly* to the crown main body of a baseball-style cap. This also is not shown or suggested by the prior art of Hankin for the same reasons as already discussed in connection with claim 1.

The addition of Lo does not provide the necessary teaching either, and indeed is relied upon by the Examiner only for teaching the use of an absorbent material for a sweatband.

In addition, Hankin does not teach attachment of the sweatband directly to the crown main body. Rather, in Hankin an elongated edging 34 is sewn to the sweatband between the stitching 33. This edging 34, which is pliable, is then attached to the frame surface 11 of the cap 1 (column 3, lines 5-10), and allows the sweatband to be turned “inside-out” for ease in size adjustment. This is not comparable to the direct attachment of the tubular sweatband to the cap frame as claimed by the present invention. Nor is there any suggestion, either from Lo or elsewhere, to modify Hankin so as to attach the sweatband directly to the crown as this would negate the flexibility needed to effect the “inside-out” size adjustment to which Hankin is directed.

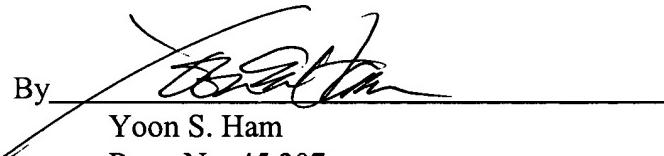
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Finally, the amendments set forth herein are clarifying in nature only. Even if the present Amendment were not entered, the claims as currently pending already state that the sweatband is "woven ... to form a tubular channel". This is consistently supported by the specification (page 3, lines 13-15, and page 5, lines 17-23) and drawings (Figures 4 and 4A) and, therefore, the present Amendment does not raise new issues and is proper after Final Action. Accordingly, entry hereof and allowance of claims 1 and 6 is requested.

With the foregoing, the application is in condition for allowance. Should the Examiner have any questions or comments, the Examiner is cordially invited to telephone the undersigned attorney so that the present application can receive an early Notice of Allowance.

Respectfully submitted,

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